

UNITED STATES DISTRICT COURT JS-6
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

INNOVATIVE BIODEFENSE, INC. ET
AL.,

Defendants.

No. SA CV 18-996-DOC (JDE)

JOINT JUDGMENT

Bench Trial Concluded March 2, 2020
The Honorable David O. Carter
United States District Judge

In this case the Plaintiff, the United States of America, sought a statutory injunction under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 332(a) (“the Act”), to permanently enjoin and restrain the Defendants, Innovative BioDefense, Inc., a corporation, Colette Cozean, an individual, and Hotan Barough, an individual doing business as Zylast Direct (collectively, “Defendants”) from directly or indirectly violating 21 U.S.C. § 331(d) by introducing or delivering, or causing to be introduced or delivered, into interstate commerce new drugs that are neither approved pursuant to 21 U.S.C. § 355(b), nor exempt from approval pursuant to 21 U.S.C. § 355(i). This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345, and 21 U.S.C. § 332(a).

On November 15, 2019, the Court entered an Order Granting in Part the Plaintiff’s Motion for Summary Judgment and Denying Defendant Barough’s Motion for Summary Judgment, finding as a matter of law that the Defendants violated the Act, and ordering a trial on the Defendants’ affirmative defenses and the scope of injunctive relief. Dkt. 124. An eight-day bench trial was held on December 16 through 20, 2019, and January 22 through 23, 2020, with closing arguments heard on March 2, 2020.

1 On May 4, 2020, the Court entered Findings of Fact and Conclusions of Law,
2 denied the Defendants' Motion for Reconsideration on Plaintiff's Motion for
3 Summary Judgment as moot, and held that, after considering the Parties' arguments,
4 the Defendants had not met their burden on their affirmative defenses and that
5 injunctive relief was appropriate. Dkt. 214. On the same day, the Court entered an
6 Order of Permanent Injunction, permanently restraining and enjoining the
7 Defendants from directly or indirectly manufacturing, processing, packaging,
8 labeling, holding, or distributing any new drugs unless and until they take specific
9 actions to comply with the Act as described in that Order. Dkt. No. 215.

10 Having considered the pleadings, the evidence presented, and the credibility of
11 the witnesses at trial, and in accordance with the Court's Findings of Fact and
12 Conclusions of Law, Dkt. 214, and Order of Permanent Injunction, Dkt. 215,
13 judgment is hereby entered for the Plaintiff, the United States of America, and
14 against Defendants, Innovative BioDefense, Inc., Colette Cozean, and Hotan
15 Barough.

16 May 15, 2020

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18 Date



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DAVID O. CARTER
United States District Judge

1 PRESENTED BY

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